

## **REMARKS/ARGUMENTS**

Claim 1 has been amended to make it clear that the sensor region is separate and physically spaced from the phase control section. This will be referred to below in more detail.

Responding to the nonstatutory double patenting rejection, submitted herewith is a Terminal Disclaimer with respect to Serial No. 09/916,541 pursuant to 37 CFR § 1.321(c). The present application and Serial No. 09/916,541 are commonly owned as shown by respective Assignments, recorded respectively at Reel 012162, Frame 0750 and Reel 012048, Frame 0546; additionally, copies of the respective Assignments and recording documents are enclosed.

The rejection of claims 1 - 7 under 35 U.S.C. § 103(a) as unpatentable over Beregovski, et al. in view of Landing et al. (WO 99/37996) is respectfully traversed. Independent claim 1 has been further amended to make it clear that the sensor region is separate and physically spaced from the phase control section, whereas, in distinction, Beregovski et al. apply their sensitive coating directly to the phase sections. Moreover, the claims are not obvious over Beregovski et al. because separating and spacing the sensor region from the phase control section is a configuration not at all suggested by Beregovski et al. Indeed, Beregovski et al. teach away from the invention in that they describe the phase section, or the phase section and grating, of the sensing layer as covered with a layer sensitive to the chemical in question (page 117, paragraph 2.1 with regard to Figure 1 of Beregovski et al.).


The Examiner acknowledges that Beregovski et al. does not teach the sensor region being separate and spaced from the phase control section. Presumably, he cites Figure 2 of Landing et al. as teaching that feature, but Landing et al. in fact fails to do so. Figure 2 of Landing et al. shows that it is only the flow channels for the inlet samples that are separate from the laser cavities, not any phase control section. Indeed, a thorough reading of Landing et al. reveals no mention at all of any phase control section, so its combination with Beregovski et al. cannot be understood.

Applicants believe that the claims are now in condition for allowance and respectfully solicit a Notice of Allowance. In the event that the claims are not allowed, the Examiner is requested to enter these remarks as placing the Application in better for condition for appeal.

The Commissioner is hereby authorized to charge payment of any fees required associated with this communication or credit any overpayment to Deposit Account No. 50-0337. If an extension of time is required please consider this a petition therefor and charge any additional fees which may be required to Deposit account No. 50-0337. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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